

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**April 8, 2002**

**IN RE:**

**APPROVAL OF THE AMENDMENT TO THE  
INTERCONNECTION AGREEMENT  
NEGOTIATED BY BELL SOUTH  
TELECOMMUNICATIONS, INC. AND BUSINESS  
TELECOM, INC. PURSUANT TO SECTIONS 251  
AND 252 OF THE TELECOMMUNICATIONS ACT  
OF 1996**

**DOCKET NO. 01-01099**

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**ORDER APPROVING AMENDMENT TO  
THE INTERCONNECTION AGREEMENT**

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*The Petition for Approval of the Amendment to the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and Business Telecom, Inc. Pursuant to the Telecommunications Act of 1996* came before the Tennessee Regulatory Authority (the "Authority") at the February 5, 2002 Authority Conference. The Amendment was filed on December 10, 2001 and came before the Authority pursuant to 47 U.S.C. § 252.

The original Interconnection Agreement and the first Amendments thereto between these parties were filed on June 19, 2000 and were assigned Docket No. 00-00478. The Authority approved the Agreement and Amendments at the August 15, 2000 Authority Conference. The second Amendment to the Agreement was filed on December 14, 2000 and was assigned Docket No. 00-01111. The Authority approved this Amendment at the February 21, 2001 Authority Conference. The parties again filed Amendments on July 19,

2001. The Authority approved these Amendments at the September 25, 2001 Authority Conference. The parties filed a fourth Amendment on December 10, 2002. It is this fourth Amendment that is the subject of this Order.

Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Amendment and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.

2) The Amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.

3) The Amendment is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>1</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should

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<sup>1</sup> See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

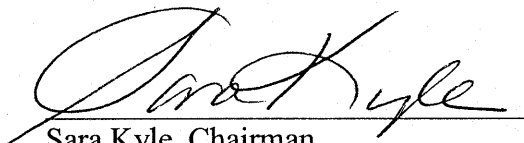
not be construed to mean that the Amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.<sup>2</sup>

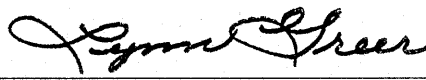
5) No person or entity has sought to intervene in this docket.

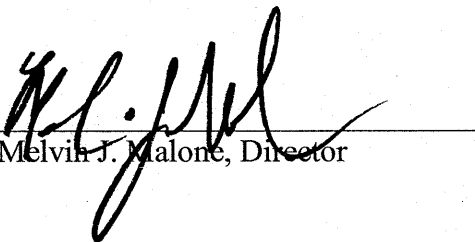
6) The Amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

**IT IS THEREFORE ORDERED THAT:**

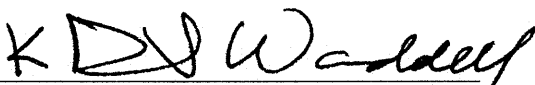
The Amendment to the Interconnection Agreement negotiated between BellSouth Telecommunications, Inc. and Business Telecom, Inc. is approved and is subject to the review of the Authority as provided herein.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary

<sup>2</sup> The Authority has issued a request to BellSouth Telecommunications, Inc. requesting that it provide to the Authority a detailed filing explaining any provisions of the interconnection agreement that differ from previous Authority decisions. BellSouth Telecommunications, Inc. has not responded to this request. In addition to this request, the Authority requested during the Authority Conference that BellSouth provide information on whether the Amendment is consistent with the Authority's previous decisions regarding combinations. BellSouth stated that it would comply with this request. See Transcript of Proceedings, Feb. 5, 2002, p. 26 (Authority Conference).